

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIRGILLIO VIRGO,

Plaintiff,

-against-

JOHN WRIGHT; SGT. LOPEZ,

Defendants.

17-CV-10006 (LLS)

ORDER

LOUIS L. STANTON, United States District Judge:

On August 14, 2018, the Court dismissed the action as frivolous, noted that Plaintiff had filed a number of frivolous or otherwise nonmeritorious cases in this Court and in the United States District Court for the Eastern District of Pennsylvania, and ordered Plaintiff to show cause by declaration within thirty days why he should not be barred from filing further actions *in forma pauperis* (IFP) in this Court without prior permission. Plaintiff did not file a declaration as directed, and by order dated September 21, 2018, the Court barred Plaintiff from filing future civil actions IFP in this Court without first obtaining from the Court leave to file. *See* 28 U.S.C. § 1651. More than three years later, on October 8, 2021, Plaintiff moved for an extension of time to appeal. For the reasons set forth below, Plaintiff's motion for an extension of time to appeal (ECF No. 11) is denied.

DISCUSSION

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, a notice of appeal in a civil case must be filed within thirty days after entry of judgment. A district court may grant a limited extension of time to file a notice of appeal if: (1) a party moves for the extension no later than thirty days after the time prescribed by Rule 4(a) expires; and (2) the moving party establishes excusable neglect or good cause. Fed. R. App. P. 4(a)(5).

Because Plaintiff's motion was filed more than three years after the entry of judgment, the Court lacks the authority to grant Plaintiff the relief he seeks. *See Goode v. Winkler*, 252 F.3d 242, 245 (2d Cir. 2001) (holding that district court had no authority to consider *pro se* motion under Fed. R. App. P. 4(a)(5) filed over thirty days after expiration of initial appeal period). Plaintiff must seek permission to file a late notice of appeal from the United States Court of Appeals for the Second Circuit.

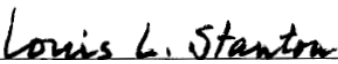
CONCLUSION

Plaintiff's request for an extension of time to appeal (ECF No. 11) is denied.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: October 13, 2021
New York, New York



Louis L. Stanton
U.S.D.J.